

ESTTA Tracking number: **ESTTA183743**

Filing date: **12/28/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	PIERRE FABRE MEDICAMENT
Granted to Date of previous extension	12/30/2007
Address	45, Place Abel Gance Boulogne, 92100 FRANCE
Attorney information	G. Patrick SAGE HUESCHEN & SAGE, PLLC 107 West Michigan Avenue, Seventh Floor, Kalamazoo Building Kalamazoo, MI 49007 UNITED STATES gps@hueschen-sage.us, jtf@hueschen-sage.us Phone:269-382-0030

### Applicant Information

Application No	77061512	Publication date	07/03/2007
Opposition Filing Date	12/28/2007	Opposition Period Ends	12/30/2007
Applicant	Javelin Pharmaceuticals, Inc. 125 CambridgePark Drive Cambridge, MA 02140 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: analgesics
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2469255	Application Date	01/20/2000
Registration Date	07/17/2001	Foreign Priority Date	07/21/1999
Word Mark	JAVLOR		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 005. First use: Anticancerous preparations
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/gpsage/
Name	G. Patrick SAGE
Date	12/28/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark  
Application Serial No. 77/061,512

PIERRE FABRE MEDICAMENT

Opposer,

v.

JAVELIN PHARMACEUTICALS, INC.

Applicant.

Opposition No. \_\_\_\_\_

**PIERRE FABRE MEDICAMENT'S  
NOTICE OF OPPOSITION**

PIERRE FABRE MEDICAMENT ("Opposer"), a French Société Anonyme, having a principle place of business of 45, Place Abel Gance, 92100 Boulogne FRANCE, believes that it will be damaged by registration of the mark JAVELIN of JAVELIN PHARMACEUTICALS, INC. ("Applicant"), a Delaware corporation, having a principle place of business of 125 Cambridge Park Drive, Cambridge, MA 02140, USA, in Application Serial No. 77/061,512, published in the Official Gazette on June 3, 2007, identifying the goods "analgesics", in International Class 5, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer owns U.S. Registration No. 2,469,255 issued on the Principal Register of

the U.S. Patent and Trademark Office on July 17, 2001 for the trademark JAVLOR® used in association with “anticancerous preparations”, in International Class 5. (“Registration”). A Declaration of Use was filed against the Registration on July 5, 2007 and accepted by the U.S. Patent and Trademark Office on August 5, 2007 in accordance with 15 U.S.C. §§1058(a)(1). The Registration is valid and subsisting, unrevoked and uncanceled, and Opposer is the owner thereof and of the goodwill appurtenant thereto.

2. Opposer has superior and exclusive Federal and common law rights in the JAVLOR® trademark and other related trademarks.
3. By the Application herein opposed, Applicant seeks to register the mark JAVELIN for goods “analgesics”, in International Class 5 under an intent-to-use basis under 15 U.S.C. §1051(b).
4. Applicant’s JAVELIN mark, when considered in its entirety, is similar in sight, sound, appearance, and commercial impression to Opposer’s JAVLOR® trademark. Further, the mark, when applied to Applicant’s goods, which are closely related to Opposer’s goods bearing the JAVLOR® trademark or used in association with Applicant’s services, are likely to cause confusion and mistake, and to deceive and mislead consumers into believing that Applicant’s analgesics and services originate with or are sponsored or licensed by Opposer.
5. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of

Applicant's mark sought to be registered in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and will give color of statutory rights to Applicant in violation and derogation of the statutory rights of Opposer in its JAVLOR® trademark as well as additional rights under common law.

Wherefore, Opposer believes that it will be damaged by the registration of Applicant's marks and respectfully requests that this opposition be sustained and that registration of Application Serial No. 77/061,512 be refused.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

A handwritten signature in black ink, appearing to read "G. Patrick Sage", written over a horizontal line.

Dated: December 28, 2007

G. PATRICK SAGE (37,710)  
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Kalamazoo, Michigan 49007  
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